

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

SHARON STANFORD, *et al.*,

Plaintiffs,

Case No. 3:19-cv-399

vs.

NORTHMONT CITY SCHOOLS, *et al.*,

District Judge Michael J. Newman

Defendants.

ORDER: (1) GRANTING PLAINTIFFS' MOTION FOR LEAVE TO FILE A SECOND AMENDED COMPLAINT (DOC. 17); (2) DIRECTING PLAINTIFFS TO FILE THEIR SECOND AMENDED COMPLAINT WITHIN SEVEN (7) DAYS FROM THE ENTRY OF THIS ORDER; AND (3) DENYING DEFENDANTS' MOTION TO DISMISS THE FIRST AMENDED COMPLAINT (DOC. 10) AS MOOT WITHOUT PREJUDICE TO REFILE

This civil case is before the Court on Plaintiffs' motion for leave to file a second amended complaint.¹ Doc. 17. Defendants filed a memorandum in opposition. Doc. 19. Thereafter, Plaintiffs filed a reply. Doc. 20. The Court has carefully reviewed the foregoing, and the motion is now ripe for decision.

Pursuant to Fed. R. Civ. P. 15(a)(2), "[t]he [C]ourt should freely give leave when justice so requires." Accordingly, in the interest of justice, Plaintiffs' motion for leave to file a second amended complaint (doc. 17) is **GRANTED**. Plaintiffs are **ORDERED** to file their second amended complaint within **SEVEN (7) DAYS** of the entry of this Order. Plaintiffs are **ADVISED** that the second amended complaint supersedes any and all previously-filed complaints, and that

¹ Plaintiffs filed their original complaint in this case on December 23, 2019. Doc. 1. On that same day, Plaintiffs filed an amended complaint. Doc. 3. Thus, the complaint now proposed by Plaintiffs would be their second amended complaint.

the Court will proceed only with the parties and claims set forth in the second amended complaint. *Drake v. City of Detroit*, 266 F. App'x 444, 448 (6th Cir. 2008).

Because Defendants' motion to dismiss (doc. 10) is directed to Plaintiffs' first amended complaint, the motion is **DENIED AS MOOT AND WITHOUT PREJUDICE TO REFILE**. *See Laning v. Doyle*, No. 3:14-cv-24, 2014 WL 2805240, at *1-2 (S.D. Ohio June 20, 2014). In other words, in granting Plaintiffs leave to file the second amended complaint, the Court makes no finding on the merits of the arguments advanced by Defendants in their motion to dismiss and their memorandum in opposition to Plaintiffs' motion for leave (doc. 18). Instead, the Court will consider those arguments should Defendants wish to assert them in a motion directed to Plaintiffs' second amended complaint.

IT IS SO ORDERED.

Date: November 20, 2020

s/ Michael J. Newman
Michael J. Newman
United States District Judge